HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.1195 of 2006

Between:

Y.V.A.J. Sathyanarayana and others

... Appellants

And

The Government of A.P.,
Rep. by its Principal Secretary,
Housing (R.H.1) Department,
Secretariat, Hyderabad and others

... Respondents

::JUDGMENT::

Counsel for the appellants: Sri M. Surender Rao

Counsel for the respondent Nos.1 to 4: Government Pleader for Housing

December 04, 2006

Per G.S. Singhvi, CJ

Having failed to persuade the learned Single Judge to

annul G.O.Rt.No.160, Housing (RH1) Department, dated 9-6-2006 issued by the State Government for delegation of the recording powers of Assistant Engineers to the Technical Work Inspectors of the Andhra Pradesh State Housing Corporation (for short, 'the Corporation') who possess Degree/LCE qualification and have minimum service of five years and who are otherwise eligible for promotion to the post of Assistant Engineers, the appellants have preferred this appeal under Clause 15 of the Letters Patent.

Shri M. Surender Rao, learned counsel for the appellants fairly admitted that his clients are not eligible to be appointed as Assistant Engineers because they do not possess the prescribed qualification and that as per the functional manual prepared by the Corporation, the recording powers can be exercised only by the persons holding the post of Assistant Engineer, but argued that the learned Single Judge committed a serious error by declining to interfere with the policy decision taken by the Government to assign the recording powers to Work Inspectors (Technical) who possess the qualification of Degree/Diploma. Learned counsel submitted that all the 429 Work Inspectors (Technical), upon whom the recording powers have been conferred by the impugned G.O., are junior to his clients and, therefore, the Court should nullify the same on the ground of violation of Article 14 of the Constitution. He emphasized that the academic and technical qualifications can be made basis for classifying the cadre of Work Inspectors into two groups for the purpose of promotion to the post of Assistant Engineer, but

juniors cannot be delegated with the recording powers because that would tantamount to placing the appellants under the subordination of their juniors.

We have considered the submissions of the learned counsel, but have not felt persuaded to accept the innovative argument made by the learned counsel. Rather, we are convinced that the writ petition filed by the appellants was a vexatious piece of litigation and the learned Single Judge did not commit any error by refusing to entertain their prayer.

Admittedly, the appellants do not possess the qualification of Degree or Diploma, which is essential for appointment and/or promotion to the post of Assistant Engineer and, therefore, none of them can even think of being considered for appointment as Assistant Engineer. Therefore, none of the appellants can be delegated the recording power. In this view of the matter, the decision of the Government to delegate the recording powers to Technical Work Inspectors of the Corporation who possess the qualification of Degree or equivalent and who have got experience of five years cannot be termed as arbitrary or unreasonable. If the argument of Shri M. Surender Rao that even though his clients are not entitled to be appointed as Assistant Engineers and, as such, they cannot be delegated the recording powers, the Court should nullify the impugned G.O. is accepted, then the work undertaken by the State Government to construct 18 lakh houses under the Indiramma programme will be adversely affected. We cannot for a moment countenance a situation where no officer would be

available for exercising the recording powers and, on that account, the quality of the work may suffer. That would be total antithesis of public interest. Therefore, we do not find any justification, legal or otherwise, to accept the appellants' challenge to the G.O. issued by the State Government.

Though not necessary, we may mention that classification made on the basis of educational qualifications in the matter of appointment, promotion etc. has by and large been upheld by the Supreme Court. Reference in this connection may appropriately be made to the judgment of the Supreme Court in **State of Jammu & Kashmir v. Triloki Nath Khosa**[1]. Therefore, delegation of recording powers to the persons who are eligible to be appointed as Assistant Engineers cannot be annulled at the instance of the appellants who do not possess the qualifications essential for appointment to that post.

In the result, the appeal is dismissed. The appellants shall pay costs of Rs.5,000/-, which shall be deposited with the Andhra Pradesh State Legal Services Authority within a period of one month from today. The Member Secretary, State Legal Services Authority shall inform the Court in writing whether or not the costs were paid by the appellants so that if it becomes necessary, the Court may give further directions for realization of the costs.

As a sequel to dismissal of the appeal, WAMP No.2485 of 2006 filed by the appellants for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

December 04, 2006

svs

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[1] AIR 1974 SC 1